



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/716,314

11/20/2000

Mark Saliterman

13432.1US01

8681

23552 7590 12/05/2003

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER

GRIER, LAURA A

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/716,314

Applicant(s)

SALITERMAN, MARK

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-12,16-19 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 9,13,14,20 and 24-26 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 9
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because line 1 recites, "disclosed" and line 2 recites, "invention". Correction is required. See MPEP § 608.01(b).

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 15** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 15, lines 3-4, "a second location within a fixed a space" is recited. It is unclear to the examiner as to whether or not the first and second locations are within the same

area of the fixed space. However, further in the claim, the language indicates as though the first and second location are in the same area. Thus, the claim language of the claim is indefinite and unclear. By, area, the examiner is referring to the arena or place in which the event takes place.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 11-12, 16, 18-19 and 21-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Williams Sound Corp.

Regarding **claims 11-12, and 21-22**, Williams Sound Corp. discloses a Personal PA Value Pack System (herein, Williams Sound) comprising a transmitter for transmitting an broadcast audio signal provided to the transmitter via an existing sound system or a microphone, wherein the audio can be subjected to frequency switching comfortable among a plurality of channels, further Williams discloses the transmitter being capable of being used with a receiver including mini earphones, wherein the audio is received by a plurality individuals in various environments of public access such as, cinemas, church, auditoriums, classroom, parks, etc.; which is indicative of a collecting an acoustic audio signal, conditioning the signal and transmitting it to at least one person in a fixed environment, and further having particular transmission protocol in respect to the different frequencies.

Regarding **claims 16, 18 and 19** Williams Sound Corp. discloses a Personal PA Value Pack System (herein, Williams Sound) comprising a transmitter for transmitting an broadcast audio signal provided to the transmitter via an existing sound system or a microphone, wherein the audio can be subjected to frequency switching comfortable among a plurality of channels, further Williams discloses the transmitter being capable of being used with a receiver including mini earphones, wherein the audio is received by a plurality individuals in various environments of public access such as, cinemas, church, auditoriums, classroom, parks, etc.; which is indicative of a collecting an acoustic audio signal, conditioning the signal and transmitting it to at least one person in a fixed environment, and further having particular transmission protocol in respect to the different frequencies; further Williams Sound inherently indicates charging a fee (revenue, money, etc.) in exchange for the earpiece by indicating that the system is priced with in one's budget (page 1).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-8 and 10** are rejected under 35 U.S.C. 102(e) as being anticipated by Ogden.

Regarding **claims 1 and 10**, Ogden discloses a wireless transmission and reception system (col. 3, lines 66-67 and col. 4, lines 1-26). Ogden's disclosure comprises a parabolic dish for receiving audio signals generated from verbal interaction during a sporting event within an arena, stadium, etc., which constitutes collecting an acoustic audio signal; a mixing console, which reads on a conditioning means, and a transmitter for transmitting the audio signal to individual spectators at a sporting event wherein the audio signal is received by wireless

headphones, which constitutes transmitting a conditioned signal to an earpiece of at least one of a plurality of individuals in a fixed environment; further Ogden indicates that the wireless transmission and reception system may be made available for public sell (col. 2, lines 43-65) which provides inherent support that the earpiece (the wireless headphones) are provided in exchange for money.

Regarding **claims 2-5**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides support of the collection of the audio signal being collected in a fixed space of a football stadium (figure 1), and provides inherent support of the collection of the audio signal being collected in a fixed space of a basketball arena, a hockey arena, and a baseball stadium as evident by fact that the audio transmission and reception system may be used in at any or various sporting events (col. 4, lines 10-13).

Regarding **claim 6**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides a parabolic dish comprising a microphone, which constitutes the collecting the acoustic audio signal using a parabolic microphone (col. 4, lines 53-65).

Regarding **claim 7**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides in figure 5 collecting the acoustic audio at more that one location within a fixed space.

Regarding **claim 8**, Ogden discloses everything claimed as applied above (see claim 7). Further, Ogden provides support of the claimed limitation as supported in col. 4 lines 15-25.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams Sound Corp.

Regarding **claims 15 and 17**, Williams Sound discloses everything claimed as applied above (see claim 11 and 16, respectively). However, Williams Sound fails to specifically disclose the collection of an audio signal at second location with the fixed space under a second transmission protocol, wherein either the first or second transmission protocol is accessible by the user. Accordingly, Williams Sound's device may be used in various public area, etc., in the case if the event was a sporting event, communication (conversations/interaction) takes place at various areas or the field, court, etc. and William provides one or more transmitter and/or receivers at this event, then it would obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Williams Sound by enabling the receivers to selectable switch from one location to another via frequency channels to able to hear the different verbal interactions/audio at different areas of an event via the same earpiece.

10. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams Sound Corp. in view of Ogden.

Regarding **claim 23**, Williams Sound discloses everything claimed as applied above (see claim 22). However, Williams Sound fails to specifically disclose the audio collection units

comprising one or more parabolic microphones. The examiner maintains that parabolic microphones were well known in the art.

Regarding the parabolic microphones, Ogden provides a parabolic dish comprising a microphone, which constitutes the collecting the acoustic audio signal using a parabolic microphone (col. 4, lines 53-65 and figure 5).

It would have been obvious to one of the ordinary skill at the time the invention was made to modify the invention of Williams Sound by providing parabolic microphones for the purpose of providing a microphone having optimal directivity, which is a primary characteristic of parabolic microphones and providing new and enhanced audio wireless transmission and reception.

Allowable Subject Matter

11. Claims 9, 13-14, 20, and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Citation of Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Inselberg, U. S. Patent No. 6434398, discloses a method and apparatus for interactive audience participation at a live spectator event.

Response to Arguments

Applicant's arguments filed 5/23/03 have been fully considered but they are not persuasive.

The applicant basically argues in respect to the art not teaching the sale or the exchange of money for the earphones. As indicated in the rejection above, both references of prior art indicate that the audio transmission and reception system or device for may be provided for sell, and thus inherently supports the exchange of the earphones for money or revenue. Another argument of the applicant is providing a uniquely associated transmission protocol with a particular event. Again, Williams Sound indicates the capability of function on multiple frequency channels in events which are held at various public environments, which provides inherent support of uniquely associated transmission protocol with a particular event, as indicated in respect to independent claims 11, 16 and 21.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Application/Control Number: 09/716,314
Art Unit: 2644


Page 9

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

LAG 
July 22, 2003


MINSUN OH HARVEY
PRIMARY EXAMINER